

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	MM Docket No. 92-281
	)	
Amendment of Section 73.202(b)	)	RM-8118
Table of Allotments.	)	
FM Broadcast Stations.	)	
(Columbia Falls, Montana)	)	

RECEIVED

JAN 21 1993

To: Chief, Allocations Branch

COMMENTS OF  
BEE BROADCASTING, INC.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Bee Broadcasting, Inc., licensee of both KJJR(AM), Whitefish, Montana and KBBZ(FM), Kalispell, Montana, respectfully submits these comments in response to the above-captioned "Notice of Proposed Rule Making," DA 92-1580, released December 1, 1992.

Background

1. Frank Copsidas, Jr., permittee of FM channel 240A at Columbia Falls, Montana, proposes to upgrade his allotment on the co-channel on which he is authorized to operate. Copsidas requests the FCC to amend its FM Table of Allotments to substitute channel 240C2 for Channel 240A and to modify his outstanding construction permit to permit authorization on the substituted channel. Copsidas argues that adoption of his proposal will be in the public interest because he would serve an additional 4,881 persons.<sup>1/</sup>

Discussion

2. Copsidas represents that a 3.16 mV/m contour will be provided over Columbia Falls.<sup>2/</sup> The best evidence suggests,

<sup>1/</sup> See Petition for Rulemaking, filed by Copsidas on October 23, 1992, at 2.

<sup>2/</sup> Id. at Technical Exhibit, ¶ 2.

however, that more than 20% of Columbia Falls will not receive 3.16mV/m "city-grade" service. See Appendix A. Intervening mountainous terrain will impede coverage to the east and north of the Copsidas antenna site. Id.

3. Copsidas also argues that a grant of the construction permit modification request would serve the public interest.<sup>3/</sup> In fact, the true purpose of the requested modification appears to confirm Copsidas' plan to provide principal service to Kalispell and Whitefish, not to Columbia Falls -- the purported community of license. Indeed, Copsidas has indicated to one of the area's major newspapers that the station's offices are likely to be located on land that he owns in Whitefish, where he also owns other investment property. See Appendix A, at Attachment 2. The fact that Copsidas' transmission facility will be oriented toward principal service to Whitefish and Kalispell is yet a further indication that Copsidas does not intend to serve Columbia Falls as its "community of license."

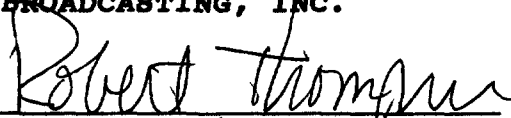
#### Conclusion

The upgrade proposal should be DENIED.

Respectfully submitted,

**BEE BROADCASTING, INC.**

By

  
Robert Lewis Thompson  
PEPPER & CORAZZINI  
1776 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-0600

January 21, 1993

---

<sup>3/</sup>See note 1, supra.

Appendix ADECLARATION

1. My name is Benny Bee, Sr. and I am president of Bee Broadcasting, Inc., licensee of KBBZ(FM), Kalispell, Montana.
2. I have reviewed the Petition for Rule Making filed by Frank Copsidas for 240C2 at Columbia Falls, Montana on October 22, 1992 at the FCC.
3. Based on my own knowledge as a broadcaster in the Columbia Falls, Montana area and also the opinion of broadcast engineer Tony Custa (see Attachment 1), I do not believe that Copsidas will place the required 3.15 mV/m contour over Columbia Falls. Intervening, mountainous terrain will impede city-grade coverage to Columbia Falls.
4. Finally, the Copsidas upgrade proposal confirms that his new FM station is intended to principally serve only Kalispell and Whitefish. His antenna has been located on the Flathead Valley side of the mountain -- near Whitefish and Kalispell and not near Columbia Falls. He intends to set up his studios and offices in Whitefish where he owns property, not Columbia Falls. See Attachment 2. It is clear that Copsidas' proposal is for Columbia Falls in name only.

I affirm under penalty of perjury that the foregoing is true and correct. Executed January 21, 1993.

  
Benny Bee, Sr.

Attachment 1

**TRC CORPORATION**

Mr. Benny Bee, Sr.  
KBBZ (FM)  
Box 860  
Whitefish, Montana 59937

**RE: Service to Columbia Falls**

Dear Benny:

You have asked my opinion about KBBZ (FM)'s service to Columbia Falls.

Even though KBBZ (FM) transmits an omni-directional FM signal of approximately 62 kilowatts power from an antenna height above average terrain of approximately 2,300 feet, intervening terrain conditions (line-of-sight obstructions) are such that KBBZ's signal does not provide a "city-grade" service to Columbia Falls.

Finally, any station proposing transmission facilities that are inferior to those of KBBZ (height and power) would not cover Columbia Falls with a "city-grade" signal.

Regards,

*[Handwritten signature]*  
Tony Costa S.d.j.

A-8 - The Whitefish Pilot, Whitefish, Mont., Thursday, November 26, 1992

## Teacher contract talks now open

By NANCY KIMBALL

A Montana Supreme Court ruling last week could mean tougher times ahead for teacher contract negotiations in Whitefish.

In deciding a case brought by the Great Falls Tribune against that local school board, the court said a state law allowing public bodies to map out strategy for labor negotiations in closed meetings was unconstitutional. According to the 6-1 decision, the public's right to know how its tax dollars are to be spent outweighs everything except a person's right to privacy.

Contract negotiations, the newspaper argued and the court agreed, do not jeopardize that privacy right.

"I think you'll find management tiptoeing around about what they can give," predicted Whitefish school superintendent Dave Peters. "It will hinder communication between (administrators and trustees) because everything they say will have to be done in public. If you can't communicate very well, it's going to make things difficult."

Ruth Leonard, a nine-year Whitefish teaching veteran and president of the Whitefish Education Association (WEA), agreed.

"I just feel that it's really going to hurt the trustees' ability to bargain with us because it's going to be so open to the media and anyone else who wants to listen," she said. Lamenting that the school board's latitude will be cramped by the new requirement to discuss all options in open session, she added, "You aren't bargaining."

The Tribune filed a lawsuit against the school board, charging trustees had met privately to discuss contract negotiations. It claimed the Constitution does not allow closed meetings unless the board proves a need to protect someone's privacy.

A district judge, however, agreed with the school board which argued that private strategy sessions are necessary to carry out its Constitutional responsibility to bargain effectively and spend money responsibly.

But on Thursday, the newspaper won on appeal. The Supreme Court's majority decision held that a school

board's mandate to supervise and control its district does not grant it authority to violate the right to privacy guaranteed by the Constitution.

The lone dissenter, Justice Fred Weber, contended that the ruling destroys the collective bargaining process. The public's right to know is not absolute, he said, and may be superseded by a compelling interest in effective bargaining.

"I am sorry to see this come down," Leonard said, "because I do want to keep the media out of this whole process. It's going to eliminate bargaining ... Some of these things the public just should not know. I think everyone will be more cautious about what is said and done."

Impact of the Supreme Court decision will be hard to gauge, Peters said. In the past, closed meetings have allowed the school board to look at money available for salaries, insurance and other benefits, and form a strategy from that.

"Basically it opens all the discussion to the public and takes away our ability to (compromise well)," he said.

## New radio station coming next summer

A new FM radio station should hit the Flathead Valley airwaves by mid-1993, but the station's owner isn't giving any indication of what its format might be.

Frank Copsidas said the 6,000-watt station's call letters will be KCWX and it will broadcast at 95.9 megahertz from Whitefish to Polson. The location of the station's office is yet to be determined, but it may locate on the vacant lot next to the Glacier Grande

restaurant in Whitefish, he said.

Copsidas owns the block of Central Avenue between Railway and 1st streets that contains the restaurant, the old Cadillac Hotel and the vacant lot that once held the Markus Foods store. Since early 1991, the empty lot has served as parking for the Glacier Grande, and has been home to the Farmers Market every Thursday during the summer.

The new station's format will remain a mystery until just before it goes on the air, Copsidas said. Before work on the Valley station begins, Copsidas plans to start another FM station in Augusta, Ga. That station should go on the air later this week, he said.

Copsidas already has a Top 40 FM station and an AM "talk radio" station in the Augusta area. The format of the new station in Georgia also has yet to be announced, he said.

## Viaduct

Continued from A-1

the existing bridge. The MDOT and BN have haggled in the past over which will foot the bill to clean up the site.

"It's not a Superfund site, but it's a hazardous waste bill that needs to be dealt with, and that's been a very sticky, legal, technical issue that we've been working on for the last several years. We finally have that cleaned up," Weaver said.

The MDOT plans to award a con-

250-foot-deep left-turn lane onto Edgewood.

The road grades will be similar to the existing road — 7 percent on south side, 6 percent on the north side. However, because the new bridge will be built east of the existing one, the road will be much straighter and the curves won't be as sharp, so traffic should flow smoother.

"Our feeling is it's going to work a lot better than the existing (bridge), plus it will be a lot wider," Weaver

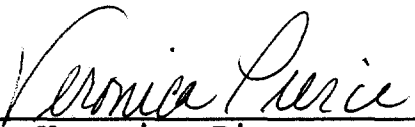
fic. Weaver said the MDOT plans to remove it because the 56-year-old bridge is structurally unsound, but "if somebody were to approach us and accept the liability ... that could happen."

The bridge has a couple of serious problems. The concrete supporting the north end of the bridge is badly deteriorated but could be repaired. In addition, some of the timber stringers underneath the bridge are cracked and "in sad shape," Weaver said.

**CERTIFICATE OF SERVICE**

I, Veronica Pierce, a secretary with the law firm PEPPER & CORAZZINI, do certify that on this 21st day of January, 1993, I served copies of the foregoing "Comments of Bee Broadcasting, Inc." by U.S. Mail upon the following:

Dan J. Alpert, Esq.  
Ginsburg, Feldman & Bress  
1250 Connecticut Avenue, N.W.  
Suite 700  
Washington, D.C. 20036

  
\_\_\_\_\_  
Veronica Pierce